(14)

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1995

No. 95-1853

WILLIAM JEFFERSON CLINTON, PETITIONER

v.

PAULA CORBIN JONES

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SUPREME COURT, U.S.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

MOTION OF THE UNITED STATES AS AMICUS CURIAE
FOR DIVIDED ARGUMENT AND TO PARTICIPATE IN ORAL ARGUMENT

Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae supporting petitioner. We further request that the United States be allowed 15 minutes of argument time. Petitioner wishes to cede 15 minutes of argument time to the United States and therefore joins in this motion. Granting this motion accordingly would not require the Court to enlarge the overall time for argument.

This is a private civil action for damages against the President of the United States based on conduct that is alleged to have occurred before the President took office. A divided panel of the Eighth Circuit rejected the contention, advanced by the President and by the United States as amicus curiae, that private civil actions for damages against a sitting President should be deferred until the conclusion of the President's service in office.

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The court of appeals held that both discovery and trial could proceed during the President's term.

In the view of the United States, to require that the President defend against private civil lawsuits in state and federal courts during his term of office would intrude impermissibly upon the President's performance of his constitutional duties. A sitting President cannot defend himself against private litigation seeking to impose personal financial liability, and bear the substantial burdens that such an undertaking entails, without diverting his energy and attention from the exercise of the "executive Power" of the United States. A judicial order requiring the President to do so would place the court in the position of impairing a coordinate Branch of the government in the performance of its constitutional functions, and would therefore violate the separation of powers under the Constitution. The United States has accordingly filed a brief amicus curiae arguing that this litigation should be stayed during the pendency of the President's service in office.

The United States has a substantial institutional interest in protecting the office of the President and the powers and duties vested in that office by Article II of the Constitution. The United States is therefore directly interested in whether, and under what circumstances, a sitting President may be compelled to take part in judicial proceedings in state or federal court. As we note in our brief in this case (see U.S. Br. 2 n.1), the United States has participated in several other cases that have presented

related issues of Presidential participation in judicial proceedings. We therefore believe that oral presentation of the views of the United States would be of material assistance to the Court.

Respectfully submitted.

WALTER DELLINGER
Acting Solicitor General

SEPTEMBER 1996